

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SHERRY SANDERS,

Plaintiff,

v.

D&S RESIDENTIAL SERVICES,

Defendant.

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Case No. 3:22-cv-176

Judge Atchley

Magistrate Judge McCook

ORDER

On January 30, 2023, United States Magistrate Judge Jill E. McCook filed a Report and Recommendation [Doc. 10] pursuant to 28 U.S.C. § 636, and the Rules of this Court. The Magistrate Judge recommends that Plaintiff's disability discrimination claim be dismissed while allowing her claims of age and race discrimination to pass the initial screening process. [Doc. 10]. Plaintiff filed a "Response" to the Report and Recommendation on February 7, 2023. [Doc. 11]. Plaintiff's "Response" only disputes the recommendation to dismiss the disability discrimination claim. [Doc. 11]. The Court has reviewed the Report and Recommendation, as well as the record, and agrees with Magistrate Judge McCook's well-reasoned conclusions.

"[T]he district court need not provide de novo review where objections [to the Report and Recommendation] are '[f]rivolous, conclusive or general.'" *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982)). Only specific objections are reserved for appellate review. *Smith v. Detroit Fed. of Teachers*, 829 F.2d 1370, 1373 (6th Cir. 1987). Upon review, Plaintiff's "Response" appears to be nothing more than a general disagreement with the Report and Recommendation on the issue of dismissal of the

disability discrimination claim. Nonetheless, the Court has reviewed the record in light of the “Response”.

The Report and Recommendation notes that neither the original Complaint [Doc. 2] nor the Amended Complaint [Doc. 9] allege any facts allowing an inference that the Plaintiff was discriminated against based on her alleged disability.¹ [Doc. 10 at 7]. Such an allegation is insufficient to state a claim under the ADAA.

In Plaintiff’s “Response”, the Plaintiff once again alleges that she is disabled, but does not present any facts alleging discrimination upon those grounds. [Doc. 11]. As there is no factual basis alleged for the discrimination claim, upon review this Court agrees with the Report and Recommendation’s findings. Accordingly, the disability discrimination claim will be dismissed.

For the reasons above the Court **ACCEPTS** and **ADOPTS** Magistrate Judge McCook’s findings of fact and conclusions of law as set forth in the Report and Recommendation [Doc. 10]. Plaintiff’s claim of disability discrimination will be **DISMISSED**, but the remaining claims of age and race discrimination will be allowed to proceed.

SO ORDERED

/s Charles E. Atchley, Jr.
CHARLES E. ATCHLEY, JR.
UNITED STATES DISTRICT JUDGE

¹ The Report and Recommendation notes, and the Court has confirmed, that Plaintiff alleges in the original Complaint to have been diagnosed with multiple conditions that are considered disabilities. [Doc. 2 at 2]. However, a mere claim of having disabilities is not sufficient to state a claim under the ADAA when there is no factual basis alleged for discrimination on those grounds.